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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
EXCISE APPEAL BRANCH

MISC Application No. : E/MISC/591/2012, E/MISC/592/2012, E/MISC/593/2012
Appeal No. : E/1197/2012-EX[DB], E/1198/2012-EX[DB], E/1199/2012-EX[DB]

Dated: **21/06/2012**

Assistant Registrar
C.E.S.T.A.T. New Delhi
To,
Sun Pharmaceutical Industries
6-9, Epip, Kartholi, Bari Brahmana,
Jammu.

Sun Pharmaceutical Industries (Appellant)

VS

C.C.E. & S.T.-Chandigarh-i (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. A/707-709/2012 & M.O.NO.722-724/2012 **-EX|DB|** dated 14/06/2012 passed by the Tribunal under section

Assistant Registrar
EXCISE Appeal Branch

Copy To,
1. Respondent
C.C.E. & S.T.-Chandigarh-i
CENTRAL REVENUE
BUILDING...SECTOR 17-C,
CHANDIGARH,160017

2. Advocate(s) / Consultant(s):
A.B.NAWAL&ASSOCIATES,
14-17 SUYASH COMMERCIAL MALL,
NEAR PAN CARD CLUB, S.NO 74&75,
BANER,PUNE-45

3. C.D.R
4. Bar Association, CESTAT, New Delhi

5. Director Publications, Customs, Excise. I.P. Estate, New Delhi

6. M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp. ICICI Bank of Defence Colony, New Delhi-3

7. Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8. Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9. Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15

10. LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

11. TaxIndiaOnline.com Pvt. Ltd., Unit No. 1, 2nd Floor, Vasant Arcade, Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Gaurd File

Assistant Registrar
EXCISE Appeal Branch

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. I

DATE OF HEARING/DECISION : 14/06/2012.

Misc. Application No.591 to 593 of 2012 and Excise Appeal No.1197 to 1199 of 2012

[Arising out of the Order-in-Appeal No.1-3/CE/Appeal/Chd-I(JK)/2012 dated 9.1.2012 passed by The Commissioner (Appeals), Central Excise, Chandigarh I]

For Approval and signature :
Hon'ble Shri Justice Ajit Bharihoke, President
Hon'ble Shri Rakesh Kumar, Member (Technical)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:
3.	Whether their Lordships wish to see the fair copy of the order?	:
4.	Whether order is to be circulated to the Department Authorities?	:

M/s Sun Pharmaceutical Industries — Appellant

Versus

CCE, Jammu — Respondent

Appearance

None – for the Appellant.

Shri Nagesh Pathak, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Shri Justice Ajit Bharihoke, President**
Hon'ble Shri Rakesh Kumar, Member (Technical)

MISC order No 722-724/2012-Ex(BR)
FINAL Order No. A/707-709/2012-Ex(BR)

Shri Justice Ajit Bharihoke :-

By this order, we propose to dispose of above referred appeals involving common parties and common question of law and fact.

2. These appeals are directed against the order of Commissioner (Appeals) vide which he rejected the appeals filed by the appellant against the respective orders-in-original whereby the Jurisdictional Assistant Commissioner disallowed the Cenvat credit wrongly availed by the appellant in respect of the education cess as also the H&S education cess. The appeals were rejected/dismissed by the Commissioner (Appeals) on account of failure of the appellant to pre-deposit the amount of the self-credit erroneously taken in respect of the duty paid against Cenvat credit account.

3. None is present on behalf of the appellant. However, Shri Kiran Sawle, Advocate for the appellant on 13.6.2012 filed an application in the registry stating that similar appeal No.E/2998 - 3003/2011 concerning the appellant involving similar question of law and fact have been heard and disposed of by the Tribunal on 13.6.2012. It is requested in the application that these appeals may also be disposed on similar lines as common question of law and fact are involved.

4. The appellant in the application have undertaken to make pre-deposit of the amount of cenvat credit held to be wrongly taken within five weeks and requested that appeals may be allowed.

5. Learned Shri Nagesh Pathak, DR for the Department have fairly conceded, if the appellants are ready and willing to complying with the condition of pre-deposit as directed by Commissioner (Appeals), the department has no objection if the order of Commissioner (Appeals) is set aside and matter is remanded back for hearing the appeals on merits.

6. In view of the undertaking given by the Counsel for the appellants as also concession given at the bar by Shri Nagesh Pathak, we allow the appeals subject to the appellant making pre-deposit in terms of the order of Commissioner (Appeals) within a period of two weeks. In the event of the appellants complying with the aforesaid undertaking, the appeals shall be treated as set aside and Commissioner (Appeals) shall decide the appeals on

merits after giving opportunity of being heard to the appellants. We make it clear that in the event of appellant failing to make pre-deposit, these appeals shall be treated as dismissed.

Appeals as well as Miscellaneous Applications are disposed of on aforesaid terms.

(Justice Ajit Bharihoke)
President

(Rakesh Kumar)
Member (Technical)

scd/